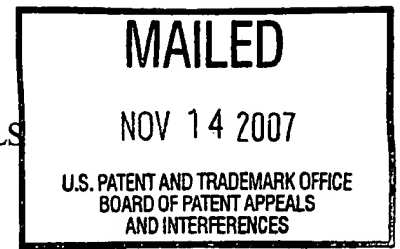


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte: SHERVIN ERFANI, VICTOR B. LAWRENCE and KAZEM A. SOHRABY

Application No. 09/895,948

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on October 30, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

APPEAL BRIEF

Summary Of Claimed Subject Matter

Appellant filed an Appeal Brief dated October 16, 2006, in response to the Final Rejection mailed December 29 2005. Claim 16 is not described in the Appeal Brief. And each

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independent claim needs to be presented independently of one another. The Appeal Brief is not in compliance with the new rules of the 37 CFR § 41.37 (c) effective September 13,2004.

37 CFR § 41.37 (c) states:

(c) (1) The brief shall contain the following itemsof this section:

(v) Summary Of Claimed Subject Matter. A concise statement of each ground of rejection presented for review. An in-depth review of the Appeal Brief indicates that the following sections are missing from the Appeal Brief. The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claims argued separately, every means plus functions and step plus function under 35 U.S.C. 112, sixth paragraph....

Proper correction of the Appeal Brief is required.

When the Office holds the brief to be defective solely due to appellant's failure to provided a summary of the claimed subject matter as required by 37 C.F.R. § 41.37(c)(1)(v), an entire new brief need not, and should not be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 C.F.R. § 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and § 711.02(b).

CONCLUSION

Accordingly, it is

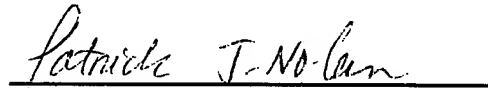
ORDERED that the application is returned to the Examiner for appropriate action on the following:

- 1) to hold the Appeal Brief filed on February 1, 2007, defective;

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- 2) notify Appellants to file a paper providing a Summary of the Claimed Subject Matter as required by 37 C.F.R. § 41.37(c)(1)(v), and properly addressing all independent claims on appeal; and
- 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

A handwritten signature in cursive script, reading "Patrick J. Nolan", is written over a horizontal line.

PATRICK J. NOLAN
Deputy Chief Appeals Administrator
(571) 272-9797

PJN/jgr

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